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May11, 2012

The Hon. Molly Dwyer, Clerk  
United States Court of Appeals  
For the Ninth Circuit  
95 – 7<sup>th</sup> Street  
P.O. Box 193939  
San Francisco, California 94103

Re: *Samuel Villegas Lopez* v. Charles Ryan, et. al., No. 12-99001  
United States District Court No. CIV 98–0072–PHX-SMM

Dear Ms. Dwyer:

Pursuant to Rule 28(f) and Circuit Rule 28–6 of the Federal Rules of Procedure, Respondents advise the Court of the following supplemental authority for the above case, set for oral argument on May 14, 2012, in San Francisco, California.

Respondents' answering brief, at page 17, argues that there is no close connection between *Martinez*<sup>1</sup> and this Court's opinion in *Lopez* because *Lopez* does not rest on procedural default. Moreover, at page 25, Respondents' answering brief argues that this Court's opinion in *Lopez*—ruling on the merits of Claim 1(C) (as exhausted) and holding that, under 28 U.S.C. § 28–2254(e)(2), *Lopez* was barred from an evidentiary hearing or expansion of the record to present additional evidence—was a merits ruling. *Lopez*'s reply brief, at page 17, argues that *Martinez* and § 2254(e) are inextricably intertwined. In support of Respondent's arguments and in response to *Lopez*'s argument, Respondents additionally cite *Cullen v. Pinholster*, 131 S.Ct. 1388, 1398–1400 (2011), and *Schad v. Ryan*, 671 F.3d 708, 722 (9th Cir. 2011), which were both decided after this Court's opinion in this case, *Lopez v. Ryan*, 630 F.3d 1198 (9th Cir. 2011).

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<sup>1</sup> *Martinez v. Ryan*, 132 S.Ct.1309 (2012).

Hon. Molly Dwyer

***Lopez v. Ryan***

May 11, 2012

Page 2 of 2

Thank you for your attention to this matter.

Sincerely,

/s/

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